

**Coalition to Stop Gun Violence & Educational Fund to Stop Gun Violence**

# **DEBUNKING A MYTH: THE GUN LOBBY'S CLAIM THAT LESS THAN 1% OF CRIME GUNS COME FROM GUN SHOWS**



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A loophole in federal law and the law of 33 states, commonly referred to as the “Gun Show Loophole,” allows unlicensed vendors at these events to sell firearms without conducting background checks on purchasers. In its efforts to keep the Gun Show Loophole open, the gun lobby often cites a Department of Justice (DOJ) survey in claiming that less than 1% of firearms used in the commission of crimes in the United States are obtained at gun shows.

The findings of this survey have been grossly distorted by opponents of gun show regulation. A comprehensive analysis of the survey’s methodology, scope, and structure reveals the problems with treating it as a scientific analysis of the sources of crime guns.

## **THE DEPARTMENT OF JUSTICE SURVEY**

The survey in question was published by the Department of Justice’s Bureau of Justice Statistics and is entitled “Survey of Inmates in State and Federal Correctional Facilities, 1997.” Investigators interviewed 18,326 convicted criminals in federal and state prisons (out of a total incarcerated population of 1.7 million individuals<sup>1</sup>) and asked them to self-report about their family background, personal characteristics, and criminal history, including information on firearms they used, carried, or possessed in the commission of their crimes.

The method used to conduct this survey is known as Computer-Assisted Personal Interviewing. Interviewers from the U.S. Bureau of the Census asked inmates a pre-formulated set of questions and then input their responses into a computer. Inmates’ responses determined which follow-up questions they were asked by interviewers. Inmates were told that their responses would be anonymous and confidential.

One string of questions in the interview dealt with the characteristics, use, and source of weapons employed by inmates in the commission of crimes. This included crimes for which they had been incarcerated, and other crimes they might have committed. Inmates who reported using a weapon in the commission of a crime were then asked the question, “And which of the following best describes where you got the [weapon used in the commission of the crime]?”

Out of the total sample of 18,326 inmates, 3,959 answered this question to report the source of a firearm (i.e., handgun, shotgun, rifle, machine gun, or other) used in the commission of a crime. The results were as follows:

Where Did You Get the Gun?	Responses	Percent
From a gun shop or store	371	9.4%
From a pawnshop	162	4.1%
At a flea market	41	1.0%
At a gun show	31	0.8%
From the victim(s)	73	1.8%
From a friend/family member	1,455	36.8%
From a fence/black market source	381	9.6%
Off the street/from a drug dealer	827	20.9%
In a burglary	89	2.2%
Don't Know/Other	356	9.0%
Refused	173	4.4%
<i>Total</i>	<i>3,959</i>	<i>100%</i>

## LIMITATIONS OF SURVEY

Taken at first glance, the number of crime guns obtained at gun shows appears to be quite low, but the scope and methodology of the survey present several problems for inferring broad, statistical conclusions about the sources of crime guns:

- It is possible that many of the firearms reported as coming from a "flea market," "friend/family member," "fence/black market source," "off the street/from a drug dealer," or "in a burglary" were obtained at gun shows and subsequently trafficked to inmates. It is a well-established fact that guns often change hands before being used in a crime. As the ATF has noted, "[Prohibited persons] can get guns illegally from unlicensed sellers, including traffickers who specifically seek to sell to criminals and unauthorized juveniles, and other individuals selling guns through advertising or on the streets ... Numerous ATF trafficking investigations involving ... gun shows show that illegally trafficked firearms end up as crime guns."<sup>3</sup>
- Some of the multiple-choice answers for the question, "And which of the following best describes where you got the [weapon used in the commission of the crime]?" were vague, unclear, or could have multiple meanings. For example, what would have been the correct choice if an inmate had bought a gun from a "fence" who also sells drugs? What if the inmate had stolen the gun from a friend or family member? Also, no explanation was given to inmates as to what type of event would constitute a "gun show" or "flea market," or what the difference between the two might be.
- Convicted criminals are not a population known for their honesty. It is possible that many of the inmates who participated in the survey failed to provide complete, accurate information regarding the crimes they had committed. The veracity of the prisoners' claims was never investigated and the Department of Justice made no effort to identify, confirm, or trace any of the crime guns that were self-reported by inmates.

# WHAT DOES AVAILABLE RESEARCH SAY ABOUT ILLEGAL FIREARM DIVERSION FROM GUN SHOWS?

Substantial data on illegal gun diversion has been produced by the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) and others, revealing that gun shows are a major source of crime guns in America.

The ATF has stated that “prohibited persons, such as convicted felons and juveniles, do personally buy firearms at gun shows and gun shows are sources of firearms that are trafficked to such prohibited persons.”<sup>4</sup> As the ATF explains, “access to anonymous sales and large numbers of second hand firearms makes gun shows attractive to criminals.”<sup>5</sup>

The agency has identified gun shows as the second-largest trafficking channel for firearms, behind only corrupt federally licensed dealers. In an analysis of 1,530 firearms trafficking investigations between July 1996 and December 1998, gun shows were associated with the diversion of approximately 26,000 illegal firearms.<sup>6</sup>



**The ATF has identified gun shows as a major source of crime guns.**

More recently, from 2004 to 2006, ATF conducted operations at just 195 gun shows nationwide, but these operations resulted in 121 individual arrests and 5,345 firearms seizures.<sup>7</sup> Approximately 5,000 gun shows are conducted in the U.S. each year.<sup>8</sup>

The discrepancy between the results of the 1997 DOJ survey and ATF’s analysis of illegal firearm diversion from gun shows has been explained by Dr. Garen Wintemute. In a 2007 multi-state analysis of gun shows, Dr. Wintemute discovered a high occurrence of straw purchases, especially in states that allow unregulated private sales at these events.<sup>9</sup> In a straw purchase (which is a federal felony offense), a prohibited purchaser recruits an individual(s) with a clean criminal record to pass a background check and purchase firearms for him/her. As Dr. Wintemute explains it:

The frequency of straw purchases may explain conflicting earlier findings. Gun shows are frequently implicated in trafficking investigations, yet less than 2% of felons incarcerated from crimes involving guns had acquired those guns themselves at gun shows. Others may have used surrogates instead. Gang members, for example, may be unable to travel to a gun show. Camera-equipped cellphones would facilitate straw purchases by making the intended possessor’s presence unnecessary.<sup>10</sup>

## SUMMARY

The gun lobby cites a 1997 Department of Justice survey repeatedly in claiming that less than 1% of crime guns are obtained from gun shows. The department, itself, however, **has made no such claim**, nor does the survey in question purport to be a scientific analysis of illegal gun diversion. The survey was based on the personal statements of convicted criminals and made no attempt to investigate the veracity of their claims or identify, confirm, and trace the crime guns they reported. It is probable that many of the guns described in the DOJ survey were purchased at gun shows and subsequently trafficked to the criminals concerned.

Past analyses of the link between gun shows and illegal gun diversion by the Bureau of Alcohol, Tobacco, Firearms and Explosives have revealed that gun shows are a major source of guns used in crime. Policy makers considering the issue of gun show regulation should value the rigorous scientific analysis of the ATF above the distortions of the gun lobby, which has obfuscated the findings of a survey of prison inmates by drawing conclusions far beyond its intended scope.

## ENDNOTES

1. U.S. Department of Justice, Bureau of Justice Statistics, "Correctional Populations in the United States, 1997," p. iii
2. U.S. Department of Justice, Bureau of Justice Statistics, "Survey of Inmates in State and Federal Correctional Facilities," 1997. This table combines data from questions S5Q44h@1 and S5Q45h@1, which asked if the inmate used a gun while committing the offense they were presently incarcerated for, and whether they had used a gun in any past crime, respectively.
3. Bureau of Alcohol, Tobacco and Firearms, "Commerce in Firearms in the United States," Washington, DC, February 2, 2000, p. 19, <http://permanent.access.gpo.gov/lps4006/020400report.pdf>
4. Ibid
5. Bureau of Alcohol, Tobacco, and Firearms, "Following the Gun: Enforcing Federal Laws Against Firearm Traffickers," Washington, DC, 2000, p. 17, [http://www.atf.gov/pub/fire-explo\\_pub/pdf/followingthegun\\_internet.pdf](http://www.atf.gov/pub/fire-explo_pub/pdf/followingthegun_internet.pdf)
6. Ibid, p. 12
7. U.S. Department of Justice, "The Bureau of Alcohol, Tobacco, Firearms and Explosives' Investigative Operations at Gun Shows," Washington, DC, 2007, pp. iv-v, <http://www.usdoj.gov/oig/reports/ATF/e0707/final.pdf>
8. Statement of Michael Bouchard, Assistant Director/Field Operations, Bureau of Alcohol, Tobacco, Firearms, and Explosives, "Oversight of the Bureau of Alcohol, Tobacco, Firearms, and Explosives Part 2: Gun Show Enforcement," Hearings before the House Subcommittee on Crime, Terrorism, and Homeland Security, 109th Congress, 2d Session, February 28, 2006, p. 4, <http://www.judiciary.house.gov/media/pdfs/bouchard022806.pdf>
9. Wintemute, Garen J., "Gun shows across a multistate American gun market: observational evidence of the effects of regulatory policies," Injury Prevention, London, UK, 2007, p. 154, <http://injuryprevention.bmj.com/cgi/reprint/13/3/150.pdf>
10. Ibid